

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1403 OF 2002

Medha Vijay Dhapre

.. Petitioner

Vs.

The Principal, Kirti M.Doongarshee College
of Arts, Science & Commerce and ors.

.. Respondents

Mr.Prashant Karande, for the Petitioner.

Mr.Neel Helekar, for Respondents No.1 & 2.

Mr.Asadullah Shaikh i/b Mr.Rui Rodrigues, for Mumbai
University.

Mr.Kaushal Trivedi, AGP for State.

(No R & P - Papers under search)

**CORAM : A.A.SAYED AND
M.S.KARNIK, JJ.**

29th JUNE, 2017

P.C. :

1. Learned Counsel for the petitioner has placed on
record photocopies of the above Writ Petition.

2. The petitioner by this Petition filed under Article 226
of the Constitution of India is seeking regularization of services
from 01/08/1991 as a permanent full time lecturer. The

petitioner has also prayed for other monetary benefits.

3. The petitioner is qualified as M.A. in Political Science and was appointed with the respondent No.1-College as a lecturer on temporary basis after following due procedure by Selection Committee against reserved category post due to non-availability of a reserved candidate. Her appointment was approved for the year. The petitioner was continued year to year on account of non-availability of a suitable reserved category candidate. Despite repeated advertisements no suitable candidate from reserved category was available. She continued as such for about 10 years and her appointment was approved for each year. The petitioner thereafter approached this Court seeking regularization of her services and absorption. The petitioner has adverted to the provisions of Section 11 (6) (b) of the Mumbai Universities Act, 1994 and various Circulars which permit the post which is reserved to be de-reserved after 6 years if the post cannot be filled up due to non availability of reserved category candidate.

4. This Court by an interim order dated 11/06/2002

directed respondents No.1 & 2 to continue to appoint the petitioner on year to year basis till such time the post is de-reserved by respondent No.4. The Court further stated - “ we hope and expect that the State of Maharashtra will decide the issue of de-reservation of the said post of lecturer in Political Science”. The Petition is of the year 2002. The petitioner has accordingly been continued in service and till date has completed 26 years of service.

5. In 2002, the University had communicated to the Principal of respondent No.1 – College that the proposal for de-reservation was incomplete and the same will be forwarded after a complete proposal is sent to the University. The petitioner has pointed out that further proposal for de-reservation was sent by the College to the University not only in 2012 but also in the year 2015. However the post has not been de-reserved.

6. When matter came up on 15/11/2010, this Court

observed - “it was high time the Government should take a decision to de-reserve the post and grant approval to the appointment of the petitioner at the earliest”. The Court directed the Principal Secretary of the State of Maharashtra, Department of Higher and Technical Education to take appropriate decision regarding de-reservation of the post in question within 3 weeks.

7. Learned Counsel for the petitioner submitted that till date no decision has been taken on de-reservation of post despite orders of this Court. Learned Counsel for the petitioner invited our attention to the judgment and order dated 23/04/2014 passed by the Division Bench of this Court in Writ Petition No. 2040 of 1999 (Dr. Mrs. Annu Sikri Vs. The University of Bombay and ors.) wherein, on somewhat similar facts, the Court directed the University of Bombay and State of Maharashtra to de-reserve the post as the petitioner was working for about more than 22 years. The petitioner is now working for about 26 years and despite the orders of this Court,

no decision appears to have been taken for de-reservation of the post.

8. In the circumstances, following the decision of the Division Bench of this Court in the aforesaid case of Dr.Mrs.Annu Sikri (*supra*), we direct the State of Maharashtra to de-reserve the post of lecturer in Political Science held by the Petitioner with effect from 1997-98 and pay all consequential monetary benefits to the Petitioner within 8 weeks from today. In the event, the University has not forwarded the proposal of the petitioner for any reason, it shall do so forthwith and in any event within one week from today.

9. The Petition is allowed and Rule is made absolute in the aforesaid terms.

10. All concerned parties to act upon authenticated copy of this order.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)